



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**WAGGONER CARR
ATTORNEY GENERAL**

May 17, 1966

Honorable Robert S. Calvert Opinion No. C-687
Comptroller of Public Accounts
Capitol Station
Austin, Texas

Re: Questions relative
to College Building
Bond Amendment,
Article VII, Section
17 of the Texas Consti-
tution

Dear Mr. Calvert:

You have requested the opinion of this office
in regard to the following questions relative to
the College Building Bond Amendment, Article VII,
Section 17 of the Texas Constitution:

- "1. What is the effective date of the amendment?
2. Is the 5¢ tax levied in 1965
 - a. To be shared by the 12 colleges that were sharing prior to November 2, or
 - b. To be shared by the 17 schools named in the amendment adopted November 2?
 - c. If shared by the 17, does the sharing begin with the first collection by the county tax collector in October, 1965 or after the effective date of the amendment?

NOTE: Deposits to College Building
Fund 1958-1967 are \$4,501,983.14
and College Building Fund 1948-
1957 are \$14,395.97, as of March
31, 1966.

3. Delinquent taxes:

- a. Will the 12 schools (and not the 17) continue to share collections of delinquencies for 1958-64?
- b. Will the 14 schools (and not the 12 nor the 17) continue to share collection of delinquencies for 1948-1957?

If so, each county tax collector will have to classify collections.
(See Note in 2c above).

- 4. Does Arlington State share in the fund?
- 5. If the amount required to retire bonds (which is known) plus the amount required to retire notes outstanding (which may or may not be known) equals more than the cash on hand plus the collections from 1965 levy, how will the 1966 and 1967 levy be divided?
- 6. If there is sufficient cash and 1965 collections to retire bonds and notes outstanding November 2, how will the 1966 and 1967 levies be distributed?
- 7. Can any of the original 12 schools or those added in the November 2 amendment issue notes after November 2, 1965?
- 8. Will the Comptroller be required to establish a new fund series for:
 - a. The 10-cents tax on assessment rolls of January, 1966 to be collected October, 1966 and after or
 - b. The 5-cents addition on assessment rolls of January, 1966 and 1967 and clear the remaining 5 cents into funds

already established by prior authority and obligated to retire notes outstanding.

In either "a" or "b" above, the entire 10 cents is to go into new funds for taxes collected on January, 1968 Assessment Rolls.

9. Is the allocation percentage computed as of June 1, 1966, to be applied to actual receipts for the period ending May 30, 1972?
10. May funds other than those funds received from Ad Valorem Taxes be used to retire note obligations incurred under the College Building Amendment?
11. Can the State Comptroller be required to register notes issued under the College Building Amendment?"

It is axiomatic in interpreting constitutional provisions that "when the significance of a phrase or clause is plainly discoverable from the words thereof, there is no reason to resort to rules of construction and effect should be given to the meaning thus ascertained. Words will be considered to have been used in their natural sense and ordinary signification, unless the context indicates the contrary". 12 Tex. Jur. 2nd, 362, Constitutional Law, Sec. 14 and cases cited thereunder.

Article VII, Section 17, of the Constitution of Texas, as adopted in 1965, is self-enacting and applying the above axioms to the language used in the amendment several of your questions can speedily be resolved as the answers appear in clear and unambiguous language therein.

Your first question, regarding the effective date of the amendment, is answered in the last paragraph thereof, wherein it is stated that "It shall become operative or effective upon its adoption..."

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The Constitutional amendment was adopted on the 19th day of November, the date the election returns were canvassed. Wilson v. State, 15 Tex. Ct. App. 150 (1883); Attorney General's Opinion S-146 (1954).

Your question four is answered in the amendment wherein it is stated that certain institutions shall be eligible to receive funds raised from the ten cent tax levy and lists the schools. The first name on this list is "Arlington State College at Arlington", thus the answer to your question must obviously be in the affirmative.

Your question eleven is answered in the negative because there is no mention anywhere in the amendment of any duty on the part of the State Comptroller to register "notes" issued under terms of the amendment. The duty of the State Comptroller to register bonds issued under the amendment is set out in the second paragraph thereof, but no similar duty is imposed as to notes.

In regard to your seventh question, we again need only to look at the clear language of the November, 1965 amendment. By its specific terms it acts to "supersede and repeal the former provisions of this Section." Thus the only authority to issue notes would have to be found in the November, 1965 amendment after its adoption by the people. In the second paragraph we find the following language: "...the governing board of each such institution of higher learning is fully authorized to pledge all or any part of said funds allotted to such institutions as hereinafter provided, to secure bonds or notes". (emphasis added). Going further we find that no funds shall be allocated, i.e. allotted, under the November 1965 amendment until June 1, 1966. Until such allotment is made it is clear that none of the schools named in the amendment can issue any notes under its terms.

As to your tenth question, there is no duty imposed on the State Comptroller under Article VII, Section 17 regarding any funds other than those received from Ad Valorem Taxes and we therefore treat this question as superfluous.

The remainder of your questions we have consolidated for purposes of clarity and brevity into the following:

1. Should the proceeds of the five cent tax levied for the year 1965 be allocated among the twelve colleges sharing in such proceeds prior to the amendment of November, 1965, or among the seventeen institutions named in the amendment?
2. Upon what basis should delinquent taxes collected for the years 1948 through 1965 be distributed (allocated), and should the same basis be used in the future for delinquent collections for the years 1966 through 1978?
3. How should the proceeds from the ten cent tax be allocated among the seventeen schools named in the amendment of November, 1965?

Turning first to the matter of the distribution of the proceeds of the five cent tax levied for the year 1965, it is our opinion that these collections should be apportioned and distributed in accordance with the allocations made in Article VII, Section 17 as it existed prior to the November, 1965 amendment.

It is a fundamental rule that money from taxes levied and collected for a certain purpose may be expended for such purpose only. Carroll v. Williams, 109 Tex. 155, 202 S.W. 504 (1918); Spears v. City of South Houston, 137 S.W. 2d 197 (Civ. App. 1940, affd. 136 Tex. 218, 150 S.W. 2d 74). The five cent tax levied for the year 1965 was levied for the purposes set out in Article VII, Section 17 prior to the November, 1965 amendment and therefore should be distributed among the twelve schools listed at the time the tax levy was made.

The same general rule cited above would apply as regards the distribution of delinquent tax collections from past years, i.e. such funds should be distributed to the schools named in and in the proportion provided in Article VII, Section 17 as it existed at the time the particular tax was levied. This would also apply to any delinquent collections in the future. Thus whether based on the tax levied under the 1947, 1956, or 1965 amendments the distribution of funds would depend on which allocation was in effect at the time the particular tax was levied.

The final question to be resolved involves how the proceeds from the ten cent tax levied should be allocated among the seventeen schools named in the November, 1965 amendment. The language of the amendment is so clear and unambiguous as to leave no question that the intent is that the entire ten cents be divided among all seventeen schools on the basis of the allocation formula set out in the amendment, starting with the tax levied for 1965 and continuing each year thereafter.

However, the amendment also provides "that nothing herein shall be construed as impairing the obligation incurred by any outstanding notes or bonds heretofore issued by any state institutions of higher learning under this Section prior to the adoption of this amendment but such notes or bonds shall be paid, both as to principal and interest, from the fund as allocated to any such institution".

Thus the Comptroller of Public Accounts should allocate the entire anticipated proceeds of the ten cent tax levy among the institutions named in the November, 1965 amendment in accordance with the provisions of such amendment, which will hereafter be referred to as the "regular allocation." However, if it appears that an institution, named in Section 17 of Article VII, prior to the 1965 amendment, has incurred valid obligations by the issuance of notes or bonds in accordance with the terms of Article VII, Section 17 as it existed prior to the 1965 amendment, and that under the regular allocation it will receive less than it would have received under the

terms of Section 17 of Article VII before the 1965 amendment, and that the regular allocation will not be sufficient to meet these outstanding obligations, then the regular allocation must be revised to the extent necessary to give such institutions an amount sufficient to meet such obligations as they become due. However, in no case can the additional amount thus allocated, together with the institution's regular allocation total more than the amount that an institution would have received by virtue of the five cent levy under Article VII, Section 17 as it existed prior to the 1965 amendment. The remaining funds to be received from the ten cent tax levy, should then be allocated in accordance with the regular allocation.

S U M M A R Y

The proceeds of the five cent ad valorem tax levied under Article VII, Section 17 of the Constitution of Texas for the year 1965 should be distributed among the schools listed and on the basis provided in said Article as it existed at the time the tax was levied.

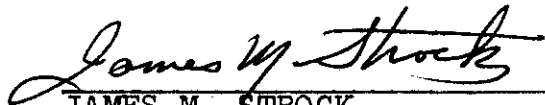
Delinquent ad valorem tax collections should be distributed as provided by the terms of Article VII, Section 17 as it read at the time the particular tax was levied.

The Comptroller of Public Accounts should allocate the entire anticipated proceeds of the ten cent tax levy among the institutions named in the November, 1965 amendment in accordance with the provisions of such amendment, which will hereafter be referred to as the "regular allocation". However, if it appears that an institution, named in Section 17 of Article VII, prior to the 1965 amendment, has incurred valid obligations by the issuance of notes or bonds in accordance with the terms of Article VII, Section 17 as it existed prior to the

1965 amendment, and that under the regular allocation it will receive less than it would have received under the terms of Section 17 of Article VII before the 1965 amendment, and that the regular allocation will not be sufficient to meet these outstanding obligations, then the regular allocation must be revised to the extent necessary to give such institutions an amount sufficient to meet such obligations as they become due. However, in no case can the additional amount thus allocated, together with the institution's regular allocation, total more than the amount that an institution would have received by virtue of the five cent levy under Article VII, Section 17 as it existed prior to the 1965 amendment. The remaining funds to be received from the ten cent tax levy, should then be allocated in accordance with the regular allocation.

Respectfully submitted,

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Attorney General of Texas



JAMES M. STROCK
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APPROVED

OPINION COMMITTEE

W. V. Geppert, Chairman
John Reeves
Malcolm Quick
Kerns Taylor

APPROVED FOR THE ATTORNEY GENERAL
By T. B. Wright